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Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed

Addendum

Visit to Viet Nam (18–29 November 2013)* **

Summary

The Special Rapporteur in the field of cultural rights undertook an official visit to Viet Nam from 18 to 29 November 2013 at the invitation of the Government.

The purpose of the visit was to assess, in a spirit of cooperation and dialogue, both the achievements of Viet Nam and the challenges remaining in the implementation of cultural rights, understood as rights of all persons to express their identity and to have access to, participate in and contribute to cultural life, without hindrance or fear. The Special Rapporteur focused on three issues, namely, history teaching, artistic freedoms and the impact of development and tourism policies on the enjoyment of cultural rights.

Viet Nam has made remarkable progress towards achieving the Millennium Development Goals and realizing a range of economic, social and cultural rights. In particular, considerable efforts are under way to enlarge access to education and culture, including in rural areas and remote regions.

The top-down approach in the design and implementation of government policies in the area of culture, however, coupled with restrictions on the right to freedom of expression, are significant obstacles to the implementation of cultural rights in the country.

* The summary of the present report is circulated in all official languages. The report itself, which is annexed to the summary, is circulated in the language of submission only.

** Late submission.

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Allowing a plurality of voices in history teaching and in the arts is necessary. There is more space for the enjoyment of artistic freedoms in Viet Nam than in past decades; however, many challenges remain, largely due to the multiplicity of regulations in the area of artistic expression, which curtail artistic freedom, and a system of prior and post censorship of the arts.

Many of the Special Rapporteur's recommendations are grounded in the principle that communities should fully participate in all decision-making affecting them, in particular in cultural heritage matters. Their participation in the identification, interpretation, development and management of cultural heritage should be ensured, and government policies should unequivocally support an informed, open and participatory debate with and within communities.

Annex

[English only]

Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, on her visit to Viet Nam from 18 to 29 November 2013

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I. Introduction

1. At the invitation of the Government, the Special Rapporteur in the field of cultural rights visited Viet Nam from 18 to 29 November 2013. She visited Hanoi, Ho Chi Minh City, Hoi An and Sa Pa, as well as villages in the Da Nang, Quang Nam and Lao Cai provinces. The Special Rapporteur met with government officials responsible for culture, tourism, education, information and communication and ethnic minorities, at the national and local levels, as well as officials from people's committees and the Central Commission for Propaganda and Education of the Central Committee of the Communist Party of Viet Nam. During the visit, the Special Rapporteur met representatives of the National Assembly and various unions. She also met artists, academics, teachers, directors and staff working in research institutes or cultural institutions, representatives of civil society, members of ethnic communities, people involved in the tourism industry and representatives of United Nations agencies.

2. Thorough discussions were held with all interlocutors on the successes and challenges in implementing cultural rights in the country, particularly the rights of people to enjoy the arts, to freedom of artistic expression and creativity, to manifest their cultural identity and to access and enjoy their own cultural heritage and that of others. The Special Rapporteur also addressed issues relating to history teaching in schools and the impact of tourism on the enjoyment of cultural rights, with a view to assisting the Government and other relevant actors in their efforts to address the challenges and obstacles in that context.

3. The Special Rapporteur thanks the Government of Viet Nam for its invitation, as well as all the people she met, for their time and expertise. She regrets, however, that in many instances, it proved difficult to speak to people freely, owing to the presence of government officials. Many people preferred to meet with her discreetly, for fear of reprisals. She encourages the Government to continue to invite special procedures to visit the country, in accordance with the terms of reference for fact-finding missions by Special Rapporteurs (E/CN.4/1998/45, appendix V), and to allow people, in particular civil society actors, to meet mandate holders freely, without fear of reprisals.

II. General context and framework

A. International framework

4. Viet Nam is a party to United Nations instruments protecting cultural rights, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and to important United Nations Educational, Scientific and Cultural Organization (UNESCO) conventions, such as the Convention Concerning the Protection of the World Cultural and Natural Heritage, the Convention for the Safeguarding of the Intangible Cultural Heritage and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

5. In recent years, Viet Nam has enhanced its cooperation with human rights mechanisms. It became a member of the Human Rights Council in 2014 and has regularly invited special procedures to visit the country.

B. Constitutional and legislative framework

6. On 28 November 2013, during the Special Rapporteur's visit, Viet Nam adopted its new Constitution, which came into force on 1 January 2014.

7. The text of the new Constitution was substantively debated in Viet Nam. The draft, which the Government had made publicly available, elicited over 26 million comments, largely focused on chapter II relating to human and citizens' rights. The Constitutional Drafting Committee carefully studied those inputs before submitting the text to the National Assembly.

8. Civil society interlocutors confirmed that certain consultation processes had been put in place, which indicated the opening of some space for discussion. Some of the greatest issues of contention around the draft Constitution were the leadership role attributed to the Communist Party, possible restrictions on the enjoyment of human rights, which were deemed to be too broad, and recognition of multiple forms of ownership of land. "Petition 72", which was signed by 72 intellectuals, scholars, writers and artists, drew considerable attention to those issues. Publicly supported by 15,000 signatures, the petition was officially submitted to the Constitutional Drafting Committee and circulated online.[1]

9. Despite their impact on the debate, many of the key proposals put forward in the petition did not materialize in the new Constitution, which retains many features of the old one unchanged, notably the absence of a multiparty system. Some advances should be noted, however, and the Special Rapporteur hopes that the new constitutional framework will facilitate enhanced implementation of human rights, in particular cultural rights,[2] in Viet Nam.

10. Chapter II of the new 2013 Constitution is entirely dedicated to human rights and citizens' rights and duties, giving greater pre-eminence to human rights issues. Civil, political, economic, social and cultural rights are included, in particular rights of significant importance in the field of culture, such as the rights to freedom of expression and freedom of religion, to education, to engage in artistic creation and to participate in cultural life.

11. Under article 14 (2) of the Constitution, human rights and citizen's rights shall only be restricted in imperative circumstances for reasons of national defence, national security, social order and safety, social morality and community well-being. Article 15 (4) states that the exercise of human rights and citizens' rights shall not infringe upon national interests and the rights and legitimate interests of others. The undefined and broad reference to "national interests" raises some concerns, for example that it may possibly allow restrictions to human rights beyond those provided for in international standards. The Special Rapporteur hopes that those provisions will be interpreted in a restrictive manner and in accordance with international standards and that the opinions of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights will be taken into consideration in that regard.

12. In accordance with article 46 of the Constitution, citizens have certain duties, including that of safeguarding "social order" and observing the "rules of public life". The Special Rapporteur stresses the importance of interpreting those provisions in a way that is

[1] See Bui Ngoc Son, "Petition 72 : The struggle for constitutional reforms in Vietnam", 28 March 2013, available from www.iconnectblog.com/2013/03/petition-72-the-struggle-for-constitutional-reforms-in-vietnam/.

[2] See Bui Ngoc Son, "Vietnam's new Constitution: A Charter for Comprehensive Renovation?", 12 December 2013, available from www.constitutionnet.org/news/vietnams-new-constitution-charter-comprehensive-renovation.

respectful of the rights to freedom of expression, to participate or not to participate in specific manifestations of cultural life, and to manifest one's own cultural practices.

13. Other provisions are also noteworthy, in particular article 5 relating to the right of "every ethnic group to use its own spoken and written language to preserve its own identity and to promote its fine customs, practices, traditions and culture".

14. Many civil society interlocutors considered the new Constitution as a chance for Vietnamese society to address key aspects of its governmental system, but also as a "lost" opportunity to adopt a more progressive and open system of governance.

15. In the area of human rights, many interlocutors indicated that the most important issue was not so much the text of the Constitution, as its potential implementation in conjunction with existing laws and decrees. One widely shared concern of civil society actors was that, most often, the authorities themselves reportedly did not respect the legal framework in place.

16. Viet Nam has adopted numerous laws and decrees relating to culture, artistic creation and science (see below). The resolution of the 5th Plenum of the Central Committee of the Communist Party (8th tenure) on building an advanced Vietnamese culture imbued with national identities guides government policies in the field of culture. The resolution is aimed at developing ideology, ethics, lifestyles and cultural life in society, and underscores that a healthy lifestyle should be established within grassroots units and residential areas to meet the diverse and increased cultural demand of the people.[3]

C. General context

17. Viet Nam is a country of great cultural diversity. The State recognizes 54 distinct ethnic groups, with seven language systems and unique religious, linguistic and cultural characteristics and identities. According to the 2009 census, the Kinh constitute the country's ethnic majority, accounting for 85.7 per cent of the population; numerous ethnic minorities constitute the remaining 14.3 per cent. Five ethnic minority groups have populations of over one million: the Tay, Thai, Muong, Khmer and Hmong. Another five ethnic groups have populations of less than 1,000 people each.[4] Issues relating to linguistic rights, ways of living and identities are thus challenging.

18. In 1986, Viet Nam introduced the Doi Moi ("renovation") reform policy, geared towards establishing a socialist-oriented market economy. Many interlocutors referred to the Doi Moi policy as a turning point. Viet Nam has made remarkable progress towards achieving the Millennium Development Goals and realizing a range of economic, social and cultural rights. In particular, the poverty rate fell from nearly 60 per cent in the early 1990s to 20.7 per cent in 2010, which means that an estimated 30 million Vietnamese people have been lifted out of poverty in the past 20 years.[5] Challenges remain, however, including, notably, addressing the high poverty rate in rural areas and remote regions and ensuring robust participation by people, which would strengthen cultural rights.[6]

19. The monopolistic position of the Communist party has important implications for the enjoyment of cultural rights. Persons working in the fields of education, culture and

[3] E/C.12/VNM/2-4, para. 547.

[4] A/HRC/16/45/Add.2, para. 3.

[5] World Bank, *Well Begun, Not Yet Done: Vietnam's Remarkable Progress on Poverty Reduction and the Emerging Challenges*, 2012, available from https://openknowledge.worldbank.org/handle/10986/12326.

[6] Ibid. See also A/HRC/17/37/Add.2, para. 11.

science, such as those holding positions at universities or in publishing houses, reportedly are required to be party members. The need to maintain party membership to avoid possible consequences, such as losing one's position, limits the possibilities for creating a forum for people to exchange ideas and express themselves freely in the fields of education, culture and science.

20. The judicial system is not visible in the governance architecture with respect to the implementation of cultural rights. It is unfortunate that judicial processes have not helped to clarify the parameters of specific laws.

21. Enquiring about the reasons for such a situation, the Special Rapporteur was informed that people do not dare approach the courts and few believe that the judiciary is independent. Many interlocutors mentioned the emblematic case of Cu Huy Ha Vu, a lawyer who was charged under article 88 of the Penal Code and, in 2011, sentenced to seven years' imprisonment for suing various government or people's committee officials, including the Prime Minister, in relation to issues such as minority rights, protection of cultural heritage sites, extraction of bauxite in the Central Highlands and other land-related issues, including the case of the Con Dau parish (see para. 86 below), as well as the prohibition of class-action petitions. At the time of the Special Rapporteur's visit, Mr. Vu was still in detention; he has since been released and now lives in exile. According to information received, people in Viet Nam cannot freely appoint a lawyer of their choice; lawyers must obtain a licence from courts on a case-by-case basis to represent their clients.

III. Realizing cultural rights in Viet Nam: specific issues

22. The Government and civil society appear to be constantly engaged in redefining the contours of the space available for a diversity of voices on a number of issues. The Special Rapporteur encourages the Government to widen that space, in accordance with the Constitution and international standards. Currently, the political and governmental structure, together with various unions, which mainly act as vehicles for transmitting government decisions, leaves little space for civil society to express itself, in particular academics, artists and others who may be critical of the Government's policies.

A. History teaching

23. The teaching of history is a core area where more space is needed to allow for a plurality of voices, in particular on how to interpret and address the past.

24. The Special Rapporteur was informed that comprehensive education reform has been scheduled for 2015, together with the ongoing pedagogical reform, to foster critical thinking and participatory education. She encourages the Government and all actors in the education system, in particular teachers, to continue their efforts in that direction.

25. History teaching should promote critical thinking, analytic learning and debate, and enable a comparative and multiperspective approach, in particular through the use of a wide array of teaching materials, including textbooks from a range of publishers (A/68/296, paras. 88 (a) and (d)). At present, only one history textbook per grade is used in schools.

26. According to information provided by the Government, the teaching of history is based on the idea that the "scientific purpose of history" should always be respected. The Special Rapporteur agrees that history teaching should treat history as an academic discipline, but stresses that the notion that there is always one objective truth concerning past events is a misconception. While facts must be treated as facts, there must always be room for interpretation of the causes of events, their consequences and the responsibilities

involved. It is important to hear and acknowledge the narratives of all sides of a conflict in order to better promote mutual understanding, and thereby reconciliation, and also to enable contemporary challenges of exclusion and violence to be addressed.

27. In her discussions with officials, the Special Rapporteur noted that the objectives of history teaching, especially in secondary schools, were several and seemingly of equal importance: learning about and understanding events that took place in the past; preserving the traditions, moral values and cultural identity of the Vietnamese people; preserving Viet Nam as a nation; and promoting patriotism. For example, family traditions are integrated in history teaching with a view to minimizing the divorce rate and fostering care for family elders. Connections between pupils/students and the military are promoted through, for example, exchanges with military schools and activities for students to engage with military officers and cadets (trainees). In that regard, the Special Rapporteur draws the attention of the Vietnamese authorities to her recommendation (A/68/296, para. 88 (a)) that history teaching should not serve the purpose of strengthening patriotism, fortifying national identity or shaping the young in line with the official ideology. Such purposes are not in keeping with history being taught as an academic discipline.

28. History teachers in Viet Nam do try to find new ways of teaching history so as to make it more interesting and relevant for students, focusing less on remembering dates and offering greater possibilities to access reliable additional information. Efforts are under way to foster the use of cultural heritage as a resource in education and training, including by means of visits to historical sites, thanks to a 2013 agreement between the Ministry of Culture and the Ministry of Education. Teachers are encouraged to use the Internet to access additional materials and to motivate students to find supplementary information through library reference books and online research. The Special Rapporteur welcomes those steps and encourages the Government to increase its efforts in that direction.

29. As teachers are expected to guide students regarding where to find reliable additional information, a crucial question is whether teachers themselves have access to a sufficiently wide array of such information, and how do they help students to distinguish between what is reliable and what is not.

30. In Ho Chi Minh City, the Special Rapporteur was informed that history teachers were expected to keep themselves up to date. School teachers meet on a monthly basis and report narratives that conflict with what is considered to be the historical truth to the City History Council under the City Department of Education and Training. The Department, which is composed of former and experienced history teachers with close relationships with academia, ensures the harmonization of history teaching in all schools. Although there are debates amongst teachers on historical narratives, teachers follow the official curricula and use official government-recognized historical sources.

31. The participation of teachers in the elaboration and development of the history programme and lessons seems limited, but the Government has launched a programme for teachers to post their history lessons on the Internet. Delegations from the Ministry of Education go to schools to gather teachers' feedback on textbooks. Some teachers indicated that they could report flaws in official textbooks and share their assessment of the online library provided by the Ministry of Education. Discussions with teachers do not seem to indicate, however, that this is well implemented in practice.

32. The school curriculum requires that a certain amount of time be devoted to local history. While this is important, it does not guarantee the introduction of a multiperspective approach. Some interlocutors complained that history teaching focused on the history of the Kinh majority and disregarded the history and cultural heritage of groups and minorities such as the Cham, the Khmer people of the Mekong Delta (who also sometimes self-identify as Khmer Krom) and groups in the Central Highlights, commonly referred to as

Montagnards. Reportedly, the histories of minorities are mainly highlighted in geography lessons, civic education or extra-curricular activities.

B. Artistic freedoms

33. According to article 40 of the new Constitution, everyone has the right to conduct scientific or technological research, to engage in literary or artistic creation and to enjoy the benefits of those activities. Article 25 protects the rights to freedom of opinion and speech and freedom of the press, to access information, to assemble, to form associations and to hold demonstrations, and states that the exercise of those rights shall be prescribed by law.

34. A number of artists believe that, compared with the past, there is more space for the enjoyment of artistic freedoms in Viet Nam. For example, exchanges with foreign artists are now possible, enabling access to foreign contemporary works and connections with international artistic trends. Since the implementation of the Doi Moi policy and the introduction of the Internet, artists have gained a stronger voice and have expressed their need for greater space more forcefully.

35. Artists notably enjoy more freedom regarding the methodology they use: since the Doi Moi policy, they can more freely use methodologies other than the Gorky methodology or socialist realism and can express their creativity through new styles and different approaches. Nevertheless, some artists stressed that socialist realism remained the dominant approach because it was favoured by the Government, which led to self-censorship and significant constraints on artistic expression.

36. Difficulties arise from the multiplicity of regulations that have been adopted in the area of artistic expression, which curtail artistic freedom and institute a system of prior and post censorship of the arts. Each art sector has its own regulations. In many areas of artistic creation, especially music, literature and cinema, committees have been tasked with reviewing, commenting on and approving artworks. Many artists complained about the lack of clearly defined specifications of what was acceptable or not and an overall climate of arbitrariness.

37. The Government informed the Special Rapporteur about its policy to create favourable conditions for creativity, while ensuring that artworks reaching the public are in conformity with social values. Therefore, while creativity is free, publication is not and is subject to censorship. The Special Rapporteur notes, however, that such a system necessarily affects creativity and leads to wide self-censorship, as confirmed by artists.

38. The Government has adopted a number of measures to support artists and, since 1995/96, has allowed wider participation of private business actors in cultural life, thereby widening the sources of artistic production.[7]

39. The State extends support to artists in the form of subsidies, but its art policies seem to reflect a desire to promote a particular world vision, while simultaneously blocking other visions. Hence, artists benefiting from State subsidies are expected to promote a good image of the country, its people and societal role models. Artists cannot adopt an approach deemed to be too critical nor introduce ideologies considered unsuitable for society nor produce work that, in the words of government officials, "harm the culture and humanistic values". One fallout is that independent artists who have no access to public audiences fear that there is a widening gap in knowledge and understanding of contemporary art among the general public.

[7] See E/C.12/VNM/2-4, para. 579.

1. Government support for the arts and for people's right to enjoy the arts

40. Financial assistance to art and artists is provided by various means. Creative houses or artist residencies, fully funded by the Government, operate in three areas of the country. The Government has established a bank dedicated to financing cinema and has supported the construction of new cinema houses. The Government also supports mobile cinemas that, with more than 300 mobile cinema teams, serve 11 to 12 million people in remote areas.

41. The Special Rapporteur discussed with relevant authorities the selection process for government support. She was informed that the selection process was carried out in collaboration with professional associations and other experts, who compiled a list of artists based on their work and talents, taking into consideration the project being proposed. The National Art Council, which is differently constituted depending on the art sector, makes the final decision. Two thirds of the Council membership are artists appointed by the professional associations; academics also sit in the Council.

42. Government representatives stressed the difficulties encountered in supporting the arts, while ensuring their free development. The Special Rapporteur agrees that it is a challenge. However, she feels that it is important that governments support the art sector without constraining it, while at the same time encouraging private actors to contribute freely to the arts. The Special Rapporteur is concerned by reports that, in practice, only artists who support the Government receive funding and that the work of artists in residency programmes is reviewed and censored, with the residency manager deciding which artworks should be made available to the public.

2. Censorship

(a) Grounds for censorship

43. Article 11 of the 2006 Law on Cinematography illustrates the censorship system that is in place in many areas of artistic expression. Some of the reasons for the restrictions in that provision are in accordance with international standards, for example, incitement to wars of aggression, to hatred among nations and peoples, and to violence.

44. However, article 11 also lists grounds that are not in compliance with international standards, with the effect of prohibiting free expression on numerous legitimate issues. Of particular concern are the prohibitions on spreading propaganda against the State; undermining the national unity; spreading reactionary ideas, an obscene and depraved lifestyle, social evils and superstition; undermining fine traditional habits and customs; distorting historical truths, negating revolutionary achievements; offending the nation, national great persons and heroes; and slandering and offending the prestige of agencies and organizations — a vast array of grounds for possible restrictions. The Special Rapporteur notes that article 11 of the Cinematography Law does not refer to the strict tests of necessity and proportionality with regard to implementing restrictions, as required under article 19 of the International Covenant on Civil and Political Rights,[8] nor does it envisage forms of restrictions other than outright prohibition. Article 10 of the 2012 Law on Publishing contains similar provisions, as does article 8 of Decree 113/2013 on art activities.

45. In practice, legislation relating to artistic expression is implemented in ways that prevent artists from being too critical with regard to "sensitive issues" such as corruption,

[8] See also Human Rights Committee general comment No. 34 (2011) on the freedoms of opinion and expression, para. 22.

land rights and development projects or from criticizing policies, strategies and activities of the Government or the Communist Party and the bauxite exploitation in the Central Highlands. Furthermore, artists who make reference to violence, sex, drugs or general social problems are often considered to be promoting them and/or giving the country a bad image, jeopardizing positive social values, undermining the spirit of the people and the harmony between groups and negatively affecting youth. Literary works set in contemporary times around contemporary issues and actors are at greater risk of being prohibited, but expressions considered as conveying "distortions of historical truth", or as being too critical of historical figures, such as Ho Chi Minh, Lenin and Marx, are also censored.

46. The practice of not clearly indicating the reasons for censoring artworks and the lack of transparency in the parameters used is a constant issue of concern for artists. On the positive side, an ongoing discussion on those issues between artists and the authorities is evident, which some believe indicates some openness on the part of the Government, and recognition, albeit slow, that artists may engage in social and political issues. The Special Rapporteur stresses that the discussion is an important process for moving forward and recalls that, beyond providing aesthetic pleasure, artists contribute to social debates, including through counter-discourses, that are a vital part of democratic societies. Moreover, definitions of truth, humanity or beauty are always subject to discussion, and artists, that is, all people who express themselves through the arts, whether professionals or amateurs, have an important role to play in voicing their views.

47. The Special Rapporteur is deeply concerned at testimonies and reports indicating that a number of artists have been under surveillance, harassed or detained. Artists have been convicted under article 88 of the Criminal Code for "conducting propaganda against the Socialist Republic of Viet Nam",[9] which is not a legitimate ground for restriction of artistic freedom under international standards. In 2012, intellectuals in Viet Nam asked for the removal of article 88 from the Criminal Code as being too vague.

48. Of particular concern to the Special Rapporteur is the general government policy of directing and controling the content of academic research. For example, Decision 97, issued by the Prime Minister, which came into effect in September 2009, limits scientific and technical research to 317 approved topics. That seriously curtails the freedom that is indispensable for scientific research and creative activity, as set out in article 15, paragraph 3, of the International Covenant on Economic, Social and Cultural Rights. The Vietnam Institute of Development Studies, an independent think tank, decided to close down rather than be subjected to such restrictive rules and additional impediments.

(b) Prior and post censorship

49. Viet Nam has established a system of prior and post censorship for a wide range of artistic expressions. The Special Rapporteur welcomes the steps taken to reduce the scope of prior censorship, but is concerned that legislative advances have not materialized in practice and that censorship is still widely practised through various mechanisms.

50. In the area of cinema, for example, given the enormous human and financial investments required to produce a film, directors, producers and investors prefer to submit scripts in advance to the Cinema Board of Censorship rather than run the risk of facing a possible restriction after completing the movie. That situation is reinforced by the fact that motivations for possible prohibition, as explained above, are very wide and have a chilling effect on cinema productions.

[9] See A/HRC/23/51, p. 32, case No. VNM 5/2012.

51. Recently, a number of movies produced by local film-makers faced prohibition before being released, which created much public debate. In 2013, the movie "Chinatown Dust", by Director Charlie Nguyen, a martial art movie situated in contemporary Ho Chi Minh City was not released. The reason invoked was that the movie showed scenes of violence without the authorities or other social forces taking any action, and hence did not reflect the true society of Ho Chi Minh City. The Special Rapporteur recalls that movies, being fiction, need not reflect society as it is. It is important to understand the use of the imaginary and fiction as a crucial element of the freedom indispensable for creative activities. Representations of the real must not be confused with the real, which means, for example, that what a character says in a novel cannot be equated with the author's personal views. Hence, artists should be able, for example, to represent crimes or what some may consider as "immorality", without being accused of promoting them.[10] The Cinema Board may also suggest changes and cuts to a film during its production or before its release.

52. The Special Rapporteur appreciates article 5 of the 2012 Law on Publishing, which stipulates that the State shall not censor works prior to their publication. However, numerous interlocutors stressed that editors of publishing houses conduct very rigorous and strict prior censorship processes: every three or six months, publishing houses submit a tentative list of books to be published, with short summaries, to the Department of Publishing of the Ministry of Communication and Information. The Department may ask to read the full manuscript of books that, in its view, may potentially contravene article 10 of the Law on Publishing, which provides for a number of restrictions (see para. 44 above). Government officials explained that the process was for information purposes only and not for approval before publication, since editors-in-chief now have full responsibility for their publications. The Special Rapporteur nevertheless considers that editors, being under government control, cannot make independent choices. Hence, delegating the duty to censor to the editors is problematic.

53. The censorship system also lacks transparency. There is a 10-day period after a book is printed, during which the authorities can prohibit its release on the market. When "sensitive" books reach the market despite that procedure, the director of the relevant publishing house may be sanctioned and copies of the book taken off the market. The Special Rapporteur was informed that in 2013 that was the case for a Vietnamese translation of George Orwell's *Animal Farm*. Some local writers also face censorship of some of their publications.

54. Decree 113/2013 on art activities describes the procedures to be followed for the organization of artistic exhibitions, which entail obtaining approval from the Ministry of Culture, Sport and Tourism or the Provincial People's Committee, depending on whether the exhibition is of an international, national or local dimension. That is also a system that allows for prior censorship.

3. Independent publishers and cinema studios

55. The Special Rapporteur learned of a number of cases in the area of literature, poetry, cinema and the visual arts which indicate that there are numerous impediments to independent production and publishing.

56. The publishing system in Viet Nam is strictly regulated by the Government. The Special Rapporteur heard many reports that editors of publishing houses must follow the policy of the Central Board for Propaganda of the Communist Party and that those wishing

[10] A/HRC/23/34, para. 37.

to make a more diverse range of writings accessible to the public enjoy a very thin *marge de manoeuvre*. Crossing the lines could have many important personal consequences.

57. One small window available to publishers and writers to avoid prior censorship is publishing e-books. Restrictions on the Internet, online censorship and control also have an impact on artistic freedom. Internet Decree 72/2013, requiring Internet companies and providers to cooperate with the Government in enforcing the prohibition of certain content and the filtering of such content, raises particular concern in that respect.

58. The Special Rapporteur is concerned at information that people trying to establish independent private publishing houses have faced harassment and arrest. Their family members have been kept under special surveillance without any explanation and they, themselves, cannot travel abroad as their passports have been retained. For example, the Special Rapporteur was informed of the case of Bui Chat, poet, publisher and founder of the Open Mouth Group, who received the International Publishers Association 2011 Freedom to Publish Award in Buenos Aires, and was detained briefly after his return.

59. People engaged in cinema and visual arts encounter many difficulties in creating and running independent studios. Procedures to obtain a licence to screen films or organize exhibitions are reportedly lengthy and involve numerous government departments, creating many opportunities for corruption. It is reportedly easier to exhibit in a commercial space than in an independent cultural institution, and licences are only granted to institutions under the umbrella of the Government. Many stakeholders see licensing as a major problem.

4. The "cultural police"

60. According to various concurrent sources of information, a specific unit under the Ministry of Public Security is in charge of influencing and monitoring the publishing press, academics and artists, to ensure that they follow existing policies and the official ideology. It is widely referred to in Vietnamese society as the "cultural police", although this is not its official name. Reportedly, its modus operandi includes the checking of licences, phone calls and threats to artists, academics or curators organizing exhibitions considered unsuitable. They operate without submitting any written document or details regarding the grounds for their interventions. The Special Rapporteur believes that she herself was under scrutiny by the "cultural police" during her visit. She regrets that, despite her request, officials from the unit referred to as the "cultural police" were not available to meet with her.

C. Preserving and promoting cultural heritage

61. Viet Nam is very proud of its rich tangible and intangible cultural heritage. Law 28/2001 on Cultural Heritage provides the legal framework for the protection and promotion of cultural heritage; it is complemented by numerous decrees, directives and programmes, including for the development of cultural activities in remote areas. Indeed, policies and guidelines have been developed for the protection of the cultural heritage of minority groups, including their languages. In Lao Cai, for example, numerous festivals, ceremonies and sports fairs are organized to foster social participation in cultural activities and promote the games of minority groups in remote areas.

62. There is increased focus on cultural heritage as a resource for development and poverty reduction through, for example, developing tourism and festivals, or re-establishing and further developing the production of craftwork for export. The Government is conscious of the need to protect and safeguard cultural heritage, in particular from the possible negative impact of tourism policies and the commercialization of culture.

I. Unity and diversity

63. The challenges are numerous, especially in view of the remoteness of many areas. The official policy of Viet Nam is to promote the "unification" of the country, based on its cultural diversity. The Special Rapporteur welcomes that goal, provided that unity is not equated with uniformity, and stresses that such a goal can only be achieved by ensuring the effective participation of relevant groups in the identification, interpretation, development and management of cultural heritage.

64. The Special Rapporteur notes the information provided by the authorities to the effect that that local people participate in the management of cultural heritage. She stresses, however, that while peoples' committees are local, they do not necessarily represent the local people, and steps must be taken to open spaces for discussion and to ensure participation beyond mere formalities and unidirectional conveying of information.

(a) Top-down approach in the area of culture

65. The Special Rapporteur's overall assessment is that government policies in the area of culture follow a top-down approach. The media, as well as mass political organizations and social organizations, such as unions, are considered as essential communication tools to disseminate the voice of the authorities regarding steps to be taken and behaviours to be adopted to protect and promote the culture, fine traditions and cultural identity of the Vietnamese people.

66. Communications are disseminated in the languages of ethnic minorities to ensure that all groups understand the Government's policy. The Special Rapporteur is concerned, however, that government policies to enhance the skills of officials in minority languages are perceived by many stakeholders not as a sign of openness, but as a way for the Government to tighten control over communities. That government policies in the field of culture are viewed with suspicion by some groups should be seen as a worrying indicator, and steps must be taken to overcome the distrust.

67. The prevailing top-down approach does not allow sufficient space for discussion. At present, culture is still largely seen as a means of fostering societal development in certain specific directions, compatible with government policies and objectives, such as following the "model example of Ho Chi Minh" in their daily lives. Certain practices and ways of life, deemed to be favourable to development, security, the environment and the general welfare of society, are promoted in ways that discourage divergent viewpoints and lively debate.

68. The Special Rapporteur expresses concern about the negative impact such an approach has on people's right to participate in the cultural life of their choice, to conduct their own cultural practices and to freely develop their cultural heritage. She recalls, in that regard, that the right to participate in cultural life includes the right not to participate and to be part of the discussion to determine which cultural practices are to be eliminated or transformed, and how.

69. Concepts such as model "cultural families" and "cultural villages" are also widely promoted to encourage particular social patterns. Selected annually as models to emulate, cultural families and cultural villages receive small financial rewards. The Special Rapporteur understands that such concepts are used to combat problems such as domestic violence and school drop-out, but remains concerned that the overall aim is to ensure strict compliance with government policies in terms of particular ways of life and cultural practices.

70. The Special Rapporteur notes in that respect the specific role attributed to women as "good mothers" who are expected to build "happy families" which are patriotic, progressive and live in harmony. In many countries, women are too often tasked with reproducing the

dominant culture of their communities.[11] Women must be encouraged to be not merely guardians, but creators of cultural values and new family traditions.

(b) Good and bad practices

71. One challenge concerns the implementation of article 22 of Law 28/2001 on Cultural Heritage, which states that positive customs, ways of life and lifestyles of the nation shall be preserved, while "outdated customs that harm the people's cultural life shall be abolished". The Government seems to have a strong propaganda apparatus to promote good values and eliminate bad practices through advocacy rather than prohibition. The Special Rapporteur is concerned, however, about reports that, in March 2014, seven ethnic Hmong followers of the Duong Van Minh faith in Tuyen Quang were sentenced to prison terms. They had built "funeral homes", which the authorities consider an "evil practice". The funeral homes were destroyed by the authorities and those who objected were beaten and arrested.

72. The Special Rapporteur discussed at length with government officials how "bad practices" and "superstition" were defined and identified. She was informed that research bodies mandated by local governments identify bad practices, elicit the views of relevant communities through discussions and make proposals to the relevant ministries. Many workshops are held before a decision is adopted.

73. Conversations with various stakeholders suggested that "bad practices" are those considered to be detrimental to the development of a modern society grounded in Vietnamese traditions, values and culture. They include practices detrimental to people's health, their rights or their general well-being. Examples mentioned to the Special Rapporteur included early marriages, funeral practices which raised concerns in term of health and hygiene, and expensive wedding ceremonies. The Special Rapporteur is of the view that the term "bad practices" needs to be clarified and defined as practices that are in contradiction with human rights or that undermine human dignity.

74. According to interlocutors, policies to combat "bad practices" are conceived and implemented with some level of stigmatization of remote minorities, premised on the widespread view that their traditions are outdated and can hinder the development of modern society. However, some officials stressed the need to respect "the advanced values" of those communities. Such a "selective" approach may have grave consequences; unless there is meaningful consultation and engagement with the communities concerned, such an approach imposes an outsider's viewpoint on what is good or bad. Some communities view the fight against bad practices as a cover for assimilation policies.

2. Linguistic diversity

75. Article 21 of Law 28/2001 on Cultural Heritage, as amended by article 1, paragraph 6, of the Amended Law 32/2009/QH12 on Cultural Heritage, provides for the protection of the spoken and written languages of ethnic groups in Viet Nam.

(a) Scripts

76. Only 25 minority languages in Viet Nam have scripts. Some have several scripts — ancient and contemporary versions. The Government recognizes that some ethnic languages are difficult to express in the Vietnamese script. It has taken steps to retrieve, select or develop minority scripts, in consultation with the relevant communities, and to promote the teaching and learning of the scripts of ethnic minority languages.

[11] A/67/287, para. 19.

77. The Special Rapporteur encourages the Government to continue to support the development of minority scripts, while ensuring greater participation of researchers and academics from the communities concerned in the decision-making processes. That would help to address concerns raised by members of relevant communities regarding the script used by some groups in Viet Nam. For example, the Hmong script created in 1962 is reportedly not widely used amongst the Hmong population, who prefer to use a newer script developed in Thailand and the United States of America.

78. The Special Rapporteur also expressed concern that the Government-developed Cham script for education affects the Cham language itself owing to imports from Vietnamese syntax into the Cham language. People reported that the traditional Cham language and script have been modified and adapted to the framework of the Vietnamese language. According to information received, most Cham scholars wish to revert to the traditional script, but cannot make their voices heard. The Special Rapporteur notes the comment from the Government that there is no policy to encourage imports of Vietnamese syntax into the Khmer language and that there is a natural convergence of languages in the Mekong Delta. She nevertheless suggests that an independent body be established to assess the matter and take into consideration the concerns of scholars and the people affected.

79. Khmer people also complain about distortions created by the phonetic transcription of Khmer names into Vietnamese script, as a result of which, people feel they cannot use indigenous names for their children or for places. Reportedly, changes in the administrative structure of the territory have had a significant impact on topographical names, and Khmer family names and the names of localities and institutions, such as pagodas, have been replaced by Vietnamese names. Other groups, such as the Montagnards in the Central Highlands, similarly complain about policies to change tribal names into Vietnamese ones.

(b) Teaching of and in minority languages

80. The Government encourages different groups to use and preserve their languages in addition to the national language, and has taken steps to promote the teaching of those languages and their scripts.

81. At the time of her visit, the Special Rapporteur was informed that 20 provinces and cities had introduced language education for seven languages, as well as six bilingual education programmes. In the school year 2013/14, in 688 schools with 4,764 classes, 108,000 students were being taught minority languages. The Special Rapporteur welcomes those achievements and encourages the Government to step up its efforts in that area. Overall, however, minority languages are still taught in schools on a very small scale.

82. Steps taken, supported or authorized by the Government in the area of bilingual education are promising. In particular, a United Nations Children's Fund (UNICEF) pilot research project, conducted in cooperation with the Ministry of Education and Training, promotes bilingual education for the Hmong, Jarai and Khmer — three of the largest minority groups — at the preschool and primary school levels, in three provinces. Significantly, research demonstrates that students benefiting from such programmes perform better than unilingual students in national tests.

83. However, the Special Rapporteur is concerned about the reported arrest, in 2013, of a group of Khmer-Krom Buddhists from the province of Soc Trang, who had opened a Khmer-language school in their pagoda for Khmer Buddhist children. The arrest took place following a confrontation with the authorities, who opposed the opening of the school. On 27 September 2013, two Buddhist monks and seven other people were sentenced to prison terms. The Special Rapporteur has not received sufficient details from the authorities on this case, and stresses the obligation of Viet Nam, under article 13, paragraphs 3 and 4, of

the International Covenant on Economic, Social and Cultural Rights, regarding the liberty of individuals and bodies to establish and direct educational institutions.

84. Beyond the issue of the language of instruction, establishing a multicultural environment in schools is crucial. The Special Rapporteur visited a boarding school in Sa Pa which hosts students from six ethnic groups living in the district. The school emphasizes the importance of the preservation of cultural heritage, through, for example, traditional games in sports, traditional songs in music lessons and traditional dances and costumes. Small programmes on local literature, poems and stories, and/or local traditional knowledge, such as agricultural techniques, have also been introduced. The Special Rapporteur encourages further steps in that direction, including the development of adequate teaching materials. She stresses the importance of such measures in a context where students, including children at a young age, are placed in boarding schools and therefore removed from the cultural life of their families and communities.

3. Development and tourism policies

(a) Development projects

85. The Government, as well as multiple actors in Vietnamese society, recognizes that conflicts are arising from the priority given to industrialization and development, and acknowledges the need to safeguard tangible and intangible cultural heritage. The detrimental impacts of development programmes on the cultural rights of ethnic minorities and local communities are of particular concern.

86. Also of particular concern to the Special Rapporteur, is the fate of communities whose ways of life and culture have been completely disrupted by development programmes. During and after her visit, she raised the case of Con Dau parish near Da Nang, where residents were subjected to forced evictions from land that they had traditionally tilled for years, to make way for the development of a private mega housing scheme.[12] While thanking the Government for its response to a joint communication,[13] the Special Rapporteur recommends that the cultural rights of the communities concerned be fully taken into consideration in the planning and implementation of all private and public development programmes. She is concerned about the many reported cases of forced evictions of communities and of the reported violence by the police against those resisting eviction.

87. More generally, land seizure and its impact on the livelihoods and cultural life of people are major issues. During the Special Rapporteur's visit, discussions were under way about the new Land Law, adopted on 29 November 2013. According to the law, individual people and communities do not own land, but may be allocated or leased land for use. Article 16 gives the State the power to recover land in a number of cases, in particular for the purpose of socioeconomic development in the national or public interest. In such a case, land users shall be entitled to compensation, support and resettlement, as prescribed by law.

88. The Special Rapporteur is concerned, however, that people are only given 90 days' notice (for agricultural land) or 180 days' notice, prior to the recovery of the land, and that a preponderant role is attributed to people's committees in the process. That cannot be considered proper consultation with the communities concerned. Given the allegedly high level of corruption amongst local officials, people have expressed fear that the system is

[12] See A/HRC/27/72, p. 19, VNM 3/2014.
[13] Ibid.

tantamount to land grabbing and exposes farming communities to grave violations of their rights.

89. The Special Rapporteur notes with interest the State responsibility to adopt policies to provide ethnic minorities with land for residences and community activities, in accordance with their customs, practices and cultural identities and the practical conditions of each region; and to facilitate the acquisition of agricultural land by ethnic minorities directly engaged in rural agricultural production.

90. Government support for development programmes, for example in the Central Highlands, is welcome, but would be more effective with the participation of local communities and the use of their knowledge, including their traditional knowledge. In villages that experience regular floods, for instance, traditional houses elevated on pillars are more appropriate than those constructed on the ground under government schemes. The Special Rapporteur appreciates the promotion of traditional architecture in the construction of communal houses for community gatherings, but regrets that the concept was not integrated into the building or upgrading of residential housing: flooding causes greater damage in the new houses.

(b) Development of the tourism industry

91. Like all countries eager to develop their tourism industry, Viet Nam is confronted with important challenges in ensuring that serious harm is not done to the environment and cultural heritage.

92. The authorities see culture as a resource for developing tourism, which creates new job opportunities and sources of income for local communities, and simultaneously enables them to showcase their culture and develop their own identities through various festivals and performances. Training programmes have been established to build the capacity of local communities with respect to the tourism industry so as to ensure that they, too, access and benefit from this new market. Villages receive support to develop their traditional products and crafts for markets. That has enabled communities to participate in the economic development of their region, while enabling the Government to promote a more multicultural image of the country.

93. Many challenges remain, however. In Sa Pa and surrounding villages, the Special Rapporteur noted that, although tourism has provided a supplementary source of livelihood for the local people, unfortunately, they are not the primary beneficiaries of tourism-generated revenue. It is difficult for local people to run their own businesses and preserve the specificity of their landscape and environment. The Special Rapporteur was informed that the Montagnards in the Central Highlands face similar problems. Another example is the Dragon Boat Festival organized by the Mekong Delta Khmer people, which has become a tourist attraction but which reportedly does not financially benefit the Khmer community.

94. It is encouraging that schemes have been proposed or put in place to ensure that the benefits of tourism are redistributed, for example, selling tickets to enter old towns and market places, the proceeds of which are redistributed amongst all stakeholders. Another idea under discussion is that local people not participating in the tourism industry should still receive at least 50 per cent of the income generated by tourists wishing to experience their ways of life. Other proposals include identifying circles of stakeholders, in particular individual artists and the wider local community or village, to share in the benefits, and establishing a tourism committee as a representative organization responsible for negotiating and signing contracts with tourism entrepreneurs.

95. The Special Rapporteur is concerned by situations that may push people to perform, rather than live their own cultures, either by artificially retaining specific aspects of cultural practices or modifying those practices to satisfy tourist demand, such as altering food or

accommodation patterns, or foreshortening their customs. Selling tickets for participation in cultural events also has an impact.

96. The Special Rapporteur notes that under Decision 39/2001/QD-BVHTT of the Minister of Culture and Information on the organization of festivals, no admission tickets to festivals may be sold, but tickets may be sold within the festival areas, if games, exhibitions and cultural shows are held, and prices must comply with the provisions of competent financial agencies. She is concerned, however, that the Khmer traditional Bay Nui bull race in some provinces of southern Viet Nam has reportedly been turned into a commercial event for which tickets are sold, and that, consequently, most of the local Khmer people can no longer afford to attend the race. The authorities should ensure compliance with the above-cited decision. In addition, reportedly, many aspects of the race have been changed: it has been shortened to make it television-friendly; the clothes of the racers and musicians display the names of sponsors; and most of the animals for the race have been crossbred to give them an edge.[14]

97. Another example relates to the Cong Chieng gongs that is played by many communities in the Central Highlands and officially recognized by UNESCO as intangible cultural heritage. The Cong Chieng is considered a sacred instrument that is used only on specific occasions. Today, in some places, it is played for tourists on demand and has lost its original cultural significance. The use of the gongs for commercial purposes has also created a situation in which people from outside the communities, such as government officials, influence the way the Cong Chieng is played. In addition, professional artists from outside the community play the instrument in ways that do not follow the tradition.

98. The challenges to the preservation of cultural heritage are numerous, as it is neither possible nor desirable to prevent the evolution of cultural practices that inevitably occurs over time. Innovation is an integral part of creativity and the freedom of individual artists to depart from tradition should be respected. However, the Special Rapporteur believes that the consent of communities should always be sought as to whether, how, when and where to perform and share aspects of their particular cultural heritage.

IV. Conclusions and recommendations

99. **Viet Nam stands at an important juncture. It has made remarkable progress towards achieving the Millennium Development Goals and realizing a range of economic, social and cultural rights. In particular, considerable efforts are under way to enlarge people's access to education and culture, including in rural areas and remote regions.**

100. **The Government is eager to promote cultural heritage as a resource for development and poverty reduction, while simultaneously mitigating the possible negative impact of development and tourism policies on cultural heritage. More needs to be done in that area, however. In particular, it is crucial that the Government support cultural heritage as a living practice, which can only happen in an environment enabling the free development and expression of culture.**

101. **A major challenge for the Government is to replace its top-down approach in the field of culture, too frequently used to steer individual and collective behaviours in directions considered compatible with government policies and objectives. It is essential that sufficient space be provided for divergent viewpoints and debates,**

[14] See www.thanhniennews.com/society/vietnams-khmer-bull-race-losing-ethnic-flavor-934.html.

especially regarding the definition, interpretation, content and value of the diverse and vivid cultural heritage of the country. Meaningful debate and discussion on those issues can only occur if freedom of expression is fully respected and guaranteed.

History teaching[15]

102. **The Special Rapporteur encourages the Government to open spaces to foster critical thought, analytic learning and debate in history teaching. She encourages Viet Nam to focus on the teaching of history understood as an academic discipline. Official standards should determine the goals and outcomes of history teaching without prescribing the content of teaching material.**

103. **The first and immediate step in that direction is to allow a wide array of textbooks by a range of publishers to be accredited, and permit teachers to choose from amongst them. Guidelines for writing textbooks should be developed to enable authors to offer various interpretations and diverse perspectives in textbooks. The Special Rapporteur welcomes the information received that in November 2014, the National Assembly passed a resolution to develop a general education programme with a wide array of textbooks.**

104. **The Government should increase efforts to encourage teachers to provide students with additional materials and to motivate them to look for supplementary information. It is important that the curriculum allocate sufficient time (ideally, at least 30 per cent of the time allocated to the teaching of history) for teachers to introduce supplementary materials, in particular authentic historical sources, without prior ministerial approval.**

105. **Concerted efforts should be made to ensure that history teaching includes the various histories of minority groups.**

Artistic freedom[16]

106. **There is more space for the enjoyment of artistic freedom in Viet Nam today than in past decades. Many challenges remain, however, owing to the multiplicity of regulations in the area of artistic expression, and the maintenance of a system of prior and post censorship. While artists strive to redefine the line of what can or cannot be expressed, the Government seems to hesitate between opening the space for artistic expression and restricting it. The Special Rapporteur encourages the Government to address the concerns expressed by artists, in accordance with article 19 of the International Covenant on Civil and Political Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights.**

107. **The Government is encouraged to continue supporting artists and developing programmes to enhance access to the arts, in particular in remote areas, but to ensure that such support is not used as a tool for controlling the content of artistic expression. Various systems of State support can be envisaged. In particular, the Government should establish a system whereby decisions on funding are delegated to independent peer-review bodies acting in conformity with transparent terms of reference and rules of procedure. Associations of artists participating in such peer-review bodies should be fully independent of the Government and the Communist Party.**

[15] See also A/68/296.

[16] See also A/HRC/23/34.

108. To ensure that restrictions are in conformity with international standards regulating restrictions on freedom of expression, as set out in article 19 of the International Covenant on Civil and Political Rights, the Special Rapporteur recommends that Viet Nam:

(a) Amend accordingly article 11 of the 2006 Law on Cinematography, article 10 of the 2012 Law on Publishing, article 8 of Decree 113 on art activities and other similar provisions;

(b) Abolish prior-censorship bodies and systems in all fields of artistic creation, in particular cinema and literature;

(c) Regarding cinema, establish an independent classification body and a rating system for the sole purpose of informing parents and regulating unsupervised access by children to particular content;

(d) Put an end to the system of government control over publishing. Independent private publishing houses and cinema/visual art studios should be authorized to operate without impediment and fear of harassment;

(e) Repeal article 88 of the Criminal Code regarding "conducting propaganda against the Socialist Republic of Viet Nam" and release those detained under this provision, in particular artists;

(f) Repeal Decision 97 of the Prime Minister, which limits scientific and technical research to 317 approved topics;

(g) Abolish the "cultural police", as well as the surveillance and harassment of artists and academics. Any decision regulating or prohibiting an artistic activity should be communicated in writing, with the reasons specified, and be subject to appeal before a court of law.

Tourism, development policies and the protection and promotion of cultural heritage

109. The Special Rapporteur recommends that the cultural rights of the communities concerned be fully taken into consideration in planning and implementing development programmes.

110. The Government should ensure greater flexibility in its policies and meaningful consultations with the communities concerned when developing programmes. A practice needs to be developed that enables people to contribute to the design of programmes that significantly affect their way of life. When extending support for housing, for example, the Government should offer them real choices with regard to the architectural design — traditional, modern or mixed — for building their personal houses.

111. The Government should ensure the effective participation of relevant groups in the identification, interpretation, development and management of cultural heritage. Inventories of tangible and intangible cultural heritage should be community based, in particular for smaller groups. The Special Rapporteur stresses that the role attributed to people's committees at the local level cannot be considered to be proper consultation of local communities.

112. The new Land Law of 2013 should be implemented in a manner that protects the collective use of land for communities wishing to retain and develop their traditional ways of life, which are most often based on agriculture, forest husbandry

or fishing. Forced evictions carried out in contradiction of international human rights standards should cease. In that regard, the Special Rapporteur draws the attention of the Government to article 11 of the International Covenant on Economic, Social and Cultural Rights, general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights on forced evictions, and the guiding principles on security of tenure for the urban poor suggested by the Special Rapporteur on adequate housing (A/HRC/25/54, para. 5).

113. Measures are needed to ensure that the people whose cultural heritage is used to promote tourism are empowered to manage such activities to their best advantage. Innovative measures should be tested and implemented to ensure that local communities have a significant share in the benefits generated by the tourism industry. The Special Rapporteur also strongly recommends that the prior and informed consent of the communities concerned be sought on whether, how, when and where to perform and share aspects of their cultural heritage, including traditional sports.

114. It is particularly important that the Government ensure that tourism does not lead to the mere folklorization of the cultures of its peoples, which would be tantamount to pigeon-holing communities according to the manifestation of their culture. Enabling communities to freely develop their cultures, including outside of touristic areas, is important. The Government should complement its support for cultural performances and crafts for tourists with programmes developed in cooperation with the communities concerned, including for continuing their cultural practices, should this be their wish.

115. The terms "bad", "outdated" or "depraved" practices should be clarified and redefined as practices that contradict human rights or undermine human dignity. Provisions such as article 22 of Law 28/2001 on Cultural Heritage should be amended accordingly. The Special Rapporteur stresses that identifying exactly which cultural practices should be considered as contrary to human rights is not a simple task. It requires policies that unequivocally support an informed, open and participatory debate within communities, which would enable such practices to be challenged from within. It also requires an independent judiciary that is able to make decisions on the basis of an explicitly human rights legal framework, taking into consideration international human rights law and practice.

Languages and multicultural environment in schools

116. The Special Rapporteur welcomes achievements in the area of minority languages education in Viet Nam but stresses that much still needs to be done. She recommends that the Government continue to support the UNICEF pilot research project promoting bilingual education for the Hmong, Jarai and Khmer communities, and expand it into a national policy.

117. The Government should continue to support the development of minority scripts, so as to ensure more effective participation of researchers and academics from the communities concerned in the decision-making processes. It should address the concerns expressed by many communities regarding their right to use their own languages in naming their children, topographical sites and institutions.

118. The Special Rapporteur recommends that further steps be taken to ensure a multicultural environment in schools, including boarding schools, and the development of adequate teaching materials reflecting the diversity of the population,

its cultural heritage and history. Such programmes should be developed in cooperation with relevant communities to ensure that the focus is not on folklore only.